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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,032	03/22/2004	Charles H. Bianchi	100,760US03	1007
34296 7590 03/15/2010				
FOGG & POWERS LLC				
5810 W 78TH STREET				
SUITE 100				
MINNEAPOLIS, MN 55439				
EXAMINER				
DEANE JR, WILLIAM J				
ART UNIT		PAPER NUMBER		
2614				
NOTIFICATION DATE		DELIVERY MODE		
03/15/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DAVID@FOGGLAW.COM
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Office Action Summary

Application No.

10/806,032

Applicant(s)

BIANCHI ET AL.

Examiner

William J. Deane

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-294)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,067,173 (Gordon) in view of U.S. Patent No. 6,141,763 (Smith).

With respect to claim 1, 4, 5, 12 and 13 note the Abstract, Col. 3, lines 9 – 60 and Col. 4, lines 10 – 50. Gordon does not explicitly teach providing a power signal to power some components. However, note that Smith discloses such (see at least the Abstract of Smith). It would have been obvious to one of ordinary skill in the art to have incorporated such a power signal as taught by Smith into the Gordon system as such would only entail the substitution of one known power means for another.

With respect to claims 2 – 3, twisted pair or DSL or cabling are all well known transmission media and it would have been obvious to one of ordinary skill in the art to have incorporated such media wherever it was deemed necessary. Note also, Col. 2, lines 9 – 21 of Smith

With respect to claim 6, if a power inserter is not inherent such would have been obvious to one of ordinary skill in the art.

With respect to claim 7 and 8, such if not inherent, would have been obvious to one of ordinary skill in the art.

Claims 9 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,067,173 (Gordon) in view of U.S. Patent No. 6,141,763 (Smith) and further in view of U.S. Patent No. 5,953,670 (Newson).

With respect to claims 9 – 11, Gordon/Smith teach the claimed limitations except for the head end aspects of the invention. However, note that Newson teaches such at Col. 3, lines 9 – 30 and Col. 6, lines 10 – 67. Since Gordon/Smith and Newson teach distribution communication systems of wireless and cabling networks, it would have been obvious to one of ordinary skill in the art to have incorporated such head end point as taught by Newson into the Gordon/Smith system in order to improve the system of Gordon (see also Gordon, Col. 1, lines 10 – 68).

Response to Arguments

Applicant's arguments with respect to claims 1 - 13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

10Mar2010

/William J Deane/

Primary Examiner, Art Unit 2614